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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA**

**FOURTH APPELLATE DISTRICT**

**DIVISION TWO**

THE PEOPLE,

Plaintiff and Respondent,

v.

JEFFREY SCOTT KLINEFELTER,

Defendant and Appellant.

E048328

(Super.Ct.No. SWF024370)

OPINION

APPEAL from the Superior Court of Riverside County. Timothy F. Freer, Judge.

Affirmed.

Athena Shudde, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

A jury convicted defendant and appellant Jeffrey Klinefelter of first degree murder (Pen. Code,<sup>1</sup> § 187, subd. (a)) and found true the allegation that he personally used a

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<sup>1</sup> All further statutory references will be to the Penal Code unless otherwise noted.

firearm in the commission of the offense and proximately caused the death of Kevin Lane (§§ 12022.53, subd. (d), 1192.7, subd. (c)(8)). The court sentenced defendant to a total term of 50 years to life in state prison.

Defendant filed a timely notice of appeal. We affirm.

### FACTUAL BACKGROUND

#### *Prosecution Evidence*

On the morning of January 25, 2008, Officers Karen Pico and Edward Chavez of the Riverside County Sheriff's Department responded to a suspicious circumstances call in Lake Elsinore. They arrived at the location and saw a fifth wheel trailer and a detached garage about 25 yards away from the trailer. Officer Pico noticed two bullet holes in the rear of the trailer and a lot of blood on the ground in front of the trailer and on the steps to the trailer. She entered the trailer and found blood and a pair of bloody blue jeans on the floor. Nobody was inside the trailer. They proceeded to look into the garage enclosure. Inside the garage, they found a minivan with a body in it. The victim was Kevin Lane (the victim), who had suffered a fatal gunshot wound in his chest.

That same morning, defendant had gone to his mother's residence. He had a shoebox with him. He told her he wanted to get rid of it. The two left in her car, and defendant disposed of the box in a dumpster at his mother's R.V. park. After that, he said he wanted to talk to her. During their conversation, he told her that he had killed a man but did not tell her any details. She dropped defendant off at a coffee shop, where he said he was going to meet someone. Defendant's mother then drove to defendant's trailer where he was living. The police were there and asked her if she knew where defendant

was. Directed by defendant's mother, the police recovered the shoe box discarded by defendant. It contained a pair of shoes. She then led them to defendant. He was wearing a new pair of clean, white tennis shoes. Defendant broke down and cried at the sight of his mother, who was sitting in the back seat of the police car. Defendant was arrested.

The ensuing investigation led to defendant's girlfriend, Shari Stokes. Stokes testified at trial that defendant had business dealings with the victim. For one of their deals, the victim was supposed to pay defendant \$100 but only gave him \$35. Defendant was not happy with the victim and called him a "tightwad." Behind the victim's back, defendant would say that the victim did not deserve to live. On the morning of January 25, 2008, Stokes went to defendant's trailer and found him shaving his head. As he was shaving his head, he said, "Kevin's last day." He then asked Stokes to go get some sodas. As she was leaving, he said, "Kill Kevin." She said, "No, you're not." Just then, the victim walked into the trailer. Stokes left to get the drinks. As she drove up to defendant's property, her cell phone rang. It was defendant, who said, "I killed Kevin." She did not believe defendant, but then she saw him by his van waving his hands, trying to get her attention. She drove up to his van and trailer and heard defendant yelling, "Help me. Help me." Stokes then saw the victim's legs hanging out of the van. She helped defendant push the victim's body into the van. Defendant was yelling at her and seemed confused. They both washed their hands, and defendant jumped into Stokes's truck. He told her to take him to his mother's house, and on the way, he told her to stop at Walmart, where he bought a pair of shoes. Stokes was eventually arrested and pled guilty to being an accessory after the fact.

Approximately three days before the incident, Stokes had overheard defendant talking with his brother on the telephone. They were discussing ways to kill the victim. Defendant said he would shoot the victim, but his brother told him to hit the victim with a bat.

### *Defense Evidence*

Defendant testified on his own behalf at trial. He said that on the day of the shooting, the victim came to his trailer and started demanding that defendant allow him to park used cars on his lot and help sell them. Defendant refused and told him to leave. The victim refused to leave. Defendant kept telling him to leave and then turned his back. He then felt a knife in his shoulder. Defendant reached under his pillow and blanket and retrieved his gun. Defendant discharged the gun out the back of the trailer as a warning and told the victim to leave. Defendant told him to leave again and shot another warning shot. Defendant admitted at trial that he then shot the victim. He said he panicked afterward and put the gun under the mattress. Defendant and Stokes put the body in the car and left the scene.

Defendant argued at trial that, if you have a trespasser in your house who repeatedly refuses to leave, you can use reasonable force that is proportional to the threat. He contended that he should, at most, be convicted of manslaughter.

### ANALYSIS

Defendant appealed, and upon his request, this court appointed counsel to represent him. Counsel has filed a brief under the authority of *People v. Wende* (1979) 25 Cal.3d 436 and *Anders v. California* (1967) 386 U.S. 738 [87 S.Ct. 1396, 18 L.Ed.2d

493], setting forth a statement of the case and the following potential arguable issues:

1) whether the trial court should have granted defense counsel's request for a continuance so that he could investigate potential witnesses (including an excused juror) and/or compel their attendance; 2) whether the expected testimonies of the potential witnesses were relevant; 3) whether the expected testimonies of the potential witnesses were cumulative; 4) whether the court erred in refusing defense counsel's oral request to release the personal information of the excused juror for purposes of investigating a possible defense; 5) whether the court erred in concluding that defense counsel failed to exercise due diligence by neglecting to secure the attendance of a specific potential witness; 6) whether the court erred in its instruction on justifiable homicide; and 7) whether the court erred in denying the motion for new trial, which was based on newly discovered evidence obtained from the excused juror after judgment and before sentencing. Counsel has also requested this court to undertake a review of the entire record. Pursuant to the mandate of *People v. Kelly* (2006) 40 Cal.4th 106, we have conducted an independent review of the record.

We offered defendant an opportunity to file a personal supplemental brief, which he has done. He submitted a handwritten brief, which simply lists a variety of claims and allegations. His claims include ineffective assistance of counsel, inadequate assistance of appellate counsel, a challenge to the evidence of the gunpowder residue test results, a challenge to one of the witnesses who heard the gunshots, a challenge to the credibility of Stokes, a challenge to the evidence from the forensic lab (since it was later shown that lab technician Aaron Layton admitted to tampering with the evidence in numerous cases), a

challenge to the firearm enhancement, a challenge to his sentence, a claim of jury misconduct (members of his family talked with members of the jury), and the claim that his defense counsel never brought in any expert witnesses. Defendant also challenges Stokes's testimony, claiming that she lied about having contact with him during their incarceration.

Virtually all of defendant's claims are "“perfunctorily asserted without argument in support.”” (*People v. Williams* (1997) 16 Cal.4th 153, 206.) We need not consider mere contentions of error unaccompanied by legal argument, since they have not been properly raised. (*Ibid.*; *People v. Earp* (1999) 20 Cal.4th 826, 884.) Moreover, there was overwhelming evidence of defendant's guilt. Given his admission at trial that he shot the victim, along with the evidence that he planned on killing the victim, he hid the victim's body after shooting him, and that he changed his clothes and shoes and fled the scene, there is little, if any, chance that his claims now would change the verdict.

Defendant submitted another handwritten letter, essentially asserting that the laws in California and in the United States “do not protect innocent people.” (Capitalization omitted.) He also alleges he did not have a fair and impartial jury because none of the jurors owned a firearm, and that he did not have a fair and impartial judge, because the court did not allow new evidence midtrial. He concludes by requesting a fair and impartial trial. The points raised in defendant's letter do not warrant a new trial. (§ 1181.) Additionally, defendant's letter received and filed on March 19, 2010, does not raise any reasonably arguable issues.

We have now concluded our independent review of the record and found no arguable issues.

DISPOSITION

The judgment is affirmed.

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HOLLENHORST

J.

We concur:

RAMIREZ

P.J.

KING

J.